

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1970 BROADWAY, NINTH FLOOR
OAKLAND, CA 94612
TEL (510) 891-9800

Matthew R. Bainer, Esq. (S.B. #220972)
Molly A. DeSario, Esq. (S.B. #230763)
SCOTT COLE & ASSOCIATES, APC
1970 Broadway, Ninth Floor
Oakland, California 94612
Telephone: (510) 891-9800
Facsimile: (510) 891-7030
mbainer@scalaw.com
mdesario@scalaw.com
Web: www.scalaw.com

Attorneys for Representative Plaintiff
and the Plaintiff Class

Gayle M. Athanacio (S.B. #130068)
Virginia K. Young (S.B. #174384)
Sharon Rossi (S.B. # 232725)
SNR DENTON US LLP
525 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 882-5000
Facsimile: (415) 882-0300
gayle.athanacio@snrdenton.com
virginia.young@snrdenton.com
sharon.rossi@snrdenton.com

Attorneys for Defendant
KMART CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MICHAEL GILHULY, individually,
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

KMART CORPORATION, and DOES
1 through 100, inclusive,

Defendants

Case No. 4:10-cv-0360-PJH

CLASS ACTION

**STIPULATION AND [PROPOSED] ORDER
CONTINUING CLASS CERTIFICATION
BRIEFING SCHEDULE AS MODIFIED**

**Date: Not Applicable
Time: Not Applicable
Dept.: Courtroom 3, 3rd Floor
Judge: Hon. Phyllis J. Hamilton**

Plaintiff Michael Gilhuly (“Plaintiff”) and Defendant Kmart Corporation (“Defendant”), by
and through their respective counsel of record named herein, hereby stipulate as follows:

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ATTORNEYS AT LAW
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WHEREAS, prior to the May 6, 2010 Initial Case Management Conference, the parties agreed to attend private mediation;

WHEREAS, this Court set the following deadlines regarding class certification at the May 6, 2010 Initial Case Management Conference: discovery regarding class certification, May 6, 2011; Motion for Class Certification, August 1, 2011; Opposition to the Motion for Class Certification, September 14, 2011; Reply to Motion for Class Certification, October 5, 2011; and, the hearing on the Motion for Class Certification, October 26, 2011 at 9:00 a.m. (*see Dckt No. 20*);

WHEREAS, the parties intended to complete the mediation session by October 4, 2010 (*see Dckt. No. 25*);

WHEREAS, the parties informally agreed to postpone resolution of outstanding discovery disputes until after the mediation session;

WHEREAS, unforeseen circumstances delayed the mediation session until January 7, 2011;

WHEREAS, the parties failed to resolve this matter at the January 7, 2011 mediation session or during approximately two months of subsequent negotiations;

WHEREAS, there have been no prior modifications to the class certification briefing schedule or the class certification discovery cutoff date; and

WHEREAS, the parties have not yet completed class certification related discovery;

THEREFORE, the parties, through their undersigned respective counsel, stipulate and request that the Court hereby continue the class certification briefing schedule as follows:

- Motion for Class Certification due: January 11, 2012;
- Opposition to Motion for Class Certification due: February 24, 2012;
- Reply to Opposition to Motion for Class Certification due: March 16, 2012; and
- Class Certification Discovery Cutoff Date: March 15, 2012.
- Hearing on Motion for Class Certification: *To be set by the Court*

IT IS SO STIPULATED.

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Dated: May 6, 2011

SCOTT COLE & ASSOCIATES, APC

By: /s/ Molly A. DeSario
Molly A. DeSario, Esq.
Attorneys for Representative Plaintiff
and the Plaintiff Class

Dated: May 6, 2011

SNR DENTON US LLP

By: /s/Gayle M. Athanacio
Gayle M. Athanacio, Esq.
Attorneys for Defendant
KMART CORPORATION

[PROPOSED] ORDER

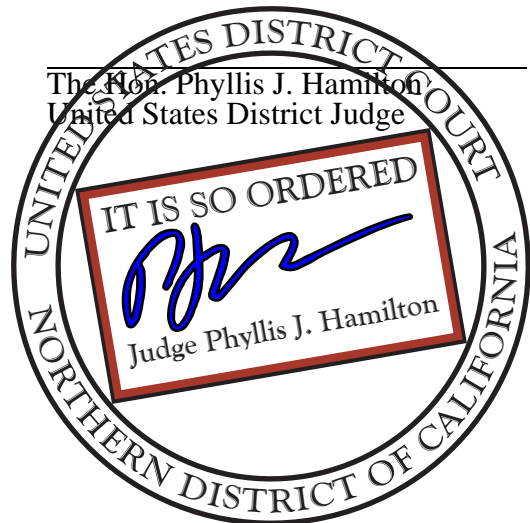
IT IS HEREBY ORDERED that:

The Class Certification briefing schedule is hereby continued as follows:

- Motion for Class Certification due: January 11, 2012;
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- Opposition to Motion for Class Certification due: February ~~24~~, 2012;
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- Reply to Opposition to Motion for Class Certification due: March ~~16~~, 2012;
- Class Certification Discovery Cutoff Date: March 15, 2012; and,
- Hearing on Motion for Class Certification: April 11, 2012

For good cause shown, **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: May 10, 2011



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